



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. HILL
ATTORNEY GENERAL**

May 22, 1974

The Honorable William H. Skelton
Chairman
Board of Pardons and Paroles
Stephen F. Austin Bldg Room 711
Austin, Texas 78701

Open Records Decision No. 33

Re: Records of Board of
Pardons and Paroles

Dear Mr. Skelton:

A reporter for Newspapers, Inc., has written requesting that, as to 28 persons whose sentences for possession of marijuana have been commuted by the Governor, and as to all persons whose sentences are to be commuted by the Governor in the future, you furnish the name, age, address of record, the date and court of sentencing, the crime or crimes of which convicted, the date of release from the Department of Corrections the date of commutation, length of the sentence and time served, and the previous criminal records and records of incarceration if any.

We are advised that since the request was made and referred to us, you have issued a press release giving, as to the individuals involved, their name, county and date of conviction, the offense and sentence in years, and the date of commutation.

The Board of Pardons and Paroles is created by Article 4, § 11 of the Constitution of this State. It provides in part:

"In all criminal cases except treason and impeachment, the Governor shall have power, after conviction, on the written, signed recommendation and advice of the Board of Pardons and Paroles, or a majority thereof, to grant reprieves and commutations of punishment and pardons. . . .

"The Legislature shall have the power to regulate procedure before the Board of Pardons and Paroles and shall require it to keep records of its actions and reasons therefore and shall have authority to enact parole laws."

The parole laws are contained in Article 42.12, Vernon's Texas Code of Criminal Procedure, the Adult Probation and Parole Law. It provides for the procedures of the Board of Pardons and Paroles in §§ 12 through 15. Section 25 is:

"On request of the Governor the Board shall investigate and report to the Governor with respect to any person being considered by the Governor for pardon, commutation of sentence, reprieve, or remission of fine or forfeiture, and make recommendations thereon."

The Law in its § 27 provides:

"Sec. 27. All information obtained in connection with inmates of the Texas Department of Corrections subject to parole or executive clemency or individuals who may be on parole and under the supervision of the division, or persons directly identified in any proposed plan of release for a parolee, shall be privileged information and shall not be subject to public inspection; provided, however, that all such information shall be available to the Governor and the Board of Pardons and Paroles upon request. It is further provided, that statistical and general information respecting the parole program and system, including the names of paroled prisoners and data recorded in connection with parole services, shall be subject to public inspection at any reasonable time."

We believe that, insofar as Article 6252-17a is concerned, information obtained in connection with inmates and contained in the records of the Board of Pardons and Paroles is made confidential by law and is not subject to compelled disclosure under the Act.

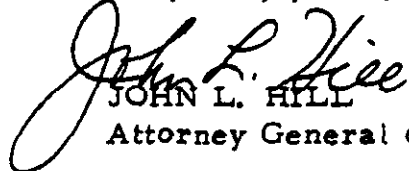
We have previously held that even where a record as such might not be subject to disclosure, nevertheless, in keeping with the purposes of the Open Records Act, the custodian should make certain basic information from it available. See, for instance, ORD #20 (1974) and compare ORD #18A (1974). Thus we are of the opinion in this instance that, although records in the files of the Board of Pardons and Paroles containing information "obtained in connection with inmates" is made confidential, basic information such as the information which you have already made available including the name, county and date of conviction, the offense and sentence and the date of commutation may properly be made public. See Attorney General Opinion H-223 (1974).

Therefore, with the exception of prior criminal records of incarceration, the other information requested by Newspapers, Inc., is available.

When § 27 of Article 42.12, V. T. C. C. P., speaks in terms of information obtained in connection with inmates, in our opinion, it refers to information not normally found in courthouse records - such information as might be placed in the records by interviewers, persons interested in and determining whether a prisoner was rehabilitated to the extent he should be paroled, recommendations for or against parole, medical records, reports having to do with social or antisocial conduct, etc.

It is our determination, therefore, that in response to the request addressed to you by Newspapers, Inc., if you have not already done so, you should make available to it the names, ages and addresses of record of persons convicted of possession of marijuana, whose sentences have been commuted by the Governor or whose sentences are commuted in the future, the crime or crimes of which they were convicted, the date of their release from the Department of Corrections and the date of commutation if it is different, and the length of sentence imposed and the amount of time actually served. You should not furnish other information including their previous criminal records and records of incarceration.

Very truly yours,

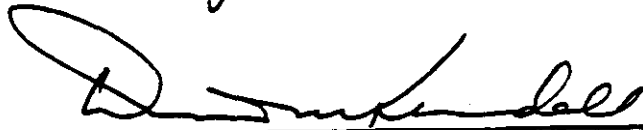

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The Honorable William H. Skelton, page 4

APPROVED:



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DAVID M. KENDALL, Chairman
Opinion Committee